



Initial Review
BOX AF

#86/Appeal
Brief
PATENT
12-16-96

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

J. M. Steinke
A. P. Shepherd

Serial No.: 07/953,680

Filed: September 29, 1992

For: METHOD AND APPARATUS FOR DIRECT
SPECTROPHOTOMETRIC
MEASUREMENTS IN UNALTERED WHOLE
BLOOD

Group Art Unit: 2505

Examiner: K. Hantis

Atty. Dkt. No.: UTSK:142/BAH

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CERTIFICATE OF MAILING
37 C.F.R. § 1.8

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December 5, 1996
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David D. Bahler

RESPONSE TO NOTIFICATE OF
NON-COMPLIANCE WITH 37 C.F.R. § 1.192(c)

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Assistant Commissioner for Patents
Washington, DC 20231

Sir:

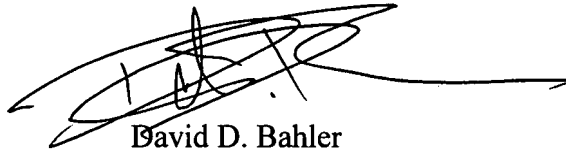
The Patent Office communication mailed November 7, 1996 alleges that the Appeal Brief filed October 28, 1996 was not in compliance with 37 C.F.R. § 1.192(c) because it was not filed in triplicate. Such is not the case.

Applicants' undersigned attorney has confirmed that the original of the Appeal Brief was filed on October 28, 1996 along with two copies, and thus the filing was in full compliance with the applicable Rules. The post card accompanying that filing has not yet been received.

However, the copy of the postcard found in the file and the cover letter accompanying the filing , each indicates that the Brief was filed in triplicate.

However, in order to avoid any further delay in this case, filed herewith are three copies of the Appeal Brief originally filed October 28, 1996. Withdrawal of the finding of non-compliance is respectfully requested.

Respectfully submitted,

A handwritten signature in dark ink, appearing to be 'D. Bahler', with a long horizontal flourish extending to the right.

David D. Bahler
Reg. No. 30,932
Attorney for Appellants

ARNOLD, WHITE & DURKEE
P.O. Box 4433
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Date: December 5, 1996



BAH AUSTIN
WTSK: 142



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NOTIFICATION OF NON-COMPLIANCE WITH 37 CFR 1.192(c)

The Appeal Brief filed 10/28/96 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See 1092 O.G. 33, July 12, 1988 and MPEP § 1206.

Applicant is given a TIME LIMIT of ONE MONTH from the date of this letter or any time remaining in the period under 37 CFR 1.192(a) for filing a new complete brief. If a new brief that fully complies with 37 CFR 1.192(c) is not timely submitted, the appeal will be dismissed as of the date of expiration of the period provided by 37 CFR 1.192(a). No extension of this one month time limit may be obtained under either 37 CFR 1.136(a) or (b) but the original two-month period under 37 CFR 1.192(a) for filing the brief may be extended under 37 CFR 1.136(a) up to six months from the date of the Notice of Appeal.

1. ☒ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order. (See explanation in box 8 below, if appropriate.)
2. ☐ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims. 37 CFR 1.192(c)(1). (See explanation in box 8 below, if appropriate.)
3. ☐ The brief does not contain a statement of the status of each amendment filed subsequent to the final rejection. 37 CFR 1.192(c)(2). (See explanation in box 8 below, if appropriate.)
4. ☐ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters. 37 CFR 1.192(c)(3). (See explanation in box 8 below, if appropriate.)
5. ☐ The brief does not contain a concise statement of the issues presented for review. 37 CFR 1.192(c)(4). (See explanation in box 8 below, if appropriate.)
6. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto. 37 CFR 1.192(c)(7). (See explanation in box 8 below, if appropriate.)
7. ☐ The brief does not present an argument under a separate heading for each issue on appeal. 37 CFR 1.192(c)(6). (See explanation in box 8 below, if appropriate.)
8. ☐ Explanation in support of items 1-7 above, if appropriate:

REC'D - A.W.D.

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The Appeal Brief must be filed in triplicate; only the original is in the file.

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Ext. of Time; \$885.00 check; trans. ltr. and postcard
☐ Assignment enclosed ☒ Cert. of Timely Mailing ☐ Express Mail

Identification of Application:

Serial No. 07/953,680

Title METHOD AND APPARATUS FOR DIRECT SPECTROPHOTOMETRIC
MEASUREMENTS IN UNALTERED WHOLE BLOOD

Applicant J. M. Steinke and A.P. Shepherd

Client UT Health Science Center at San Antonio

AWD File No. UTSK:142 Atty. BAH/PIR

Mailed 10/25/96 Filed _____ Due Date 6/25/96

ARNOLD, WHITE & DURKEE

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October 25, 1996

FILE: UTSK:142

WRITER'S DIRECT DIAL:
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BOX AF

Assistant Commissioner for Patents
Washington, DC 20231

CERTIFICATE OF MAILING 37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on the date below:

October 25, 1996
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David D. Bahler

RE: *SN 07/953,680 "METHOD AND APPARATUS FOR DIRECT SPECTROPHOTOMETRIC MEASUREMENTS IN UNALTERED WHOLE BLOOD" - J. M. Steinke and A. P. Shepherd (UTHSC/SA:142)*

Sir: .

Transmitted herewith for filing are:

- 1) An Appeal Brief (an original and two copies);
2. A Second Supplemental Declaration of A. P. Shepherd under 37 C.F.R. § 1.132;
- 2) A Request for an Extension of Time of four months, to and including October 25, 1996;
- 3) A check for \$885.00 to cover the filing fee(s); and
- 4) A return postcard to acknowledge receipt of these materials. Please date stamp and mail this postcard.

ARNOLD, WHITE & DURKEE

Assistant Commissioner for Patents
October 25, 1996
Page 2

If the check is inadvertently omitted, or should any additional fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to the enclosed materials, or should an overpayment be included herein, the Commissioner is authorized to deduct or credit said fees from or to Arnold, White & Durkee Deposit Account No. 01-2508/UTSK:I42/BAH.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. Bahpler', with a long horizontal flourish extending to the right.

David D. Bahpler
Reg. No. 30,932

DDB/sac
Encl: